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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,541	11/14/2005	Peter Bauer	2002P01555WOUS	8001

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BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
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EXAMINER

WILKENS, JANET MARIE

ART UNIT	PAPER NUMBER
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3637

MAIL DATE	DELIVERY MODE
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08/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/539,541	BAUER ET AL.	
	Examiner	Art Unit	
	Janet M. Wilkens	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 10-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 6/16/2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

Drawings

Figures 1-3 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the second closure element and second transverse edges of the walls must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: it is improper to reference claims in the specification (since claims can be modified thereby changing the scope of the specification) and there are no headings in the specification, i.e. Brief Description of the Drawings", etc. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 14 and 23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Namely, it is unclear how the flank portion is variably adjustable in height. Two different embodiments are shown, but neither is adjustable.

Claims 16, 18, 25 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claims 16 and 25, "the second transverse edges" lacks antecedent basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Claims 10, 11, 13, 17, 19, 20, 22 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by McClellan (2,750,901). McClellan teaches a door/closure (40) comprising: an outer wall (140), inner wall (136), insulation (151) there between and a first closure element (141) with a step cross section fastened between the walls. A portion of the step being parallel to the outer and inner wall. Furthermore, the appliance itself includes an "indicating field" (88).

Claims 10, 11, 13, 17, 19, 20, 22 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Nelson et al (4,685,402). Nelson teaches a door/closure (17) comprising: an outer wall (see Fig. 5), inner wall (41), insulation (37) there between and a first closure element (49) with a step cross-section fastened between the walls. A portion of the step being parallel to the outer and inner wall. Furthermore, the appliance itself includes an "indicating field" (47).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12, 15, 21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al (4,685,402). As stated above, Nelson teaches the limitations of claims 10 and 19, including a first closure element. Nelson also shows that the element is made of metal. For claims 12 and 21, Nelson fails to teach that the element is made of plastic. The examiner takes Official notice that plastic insulation panels/parts are well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the door of Nelson by using plastic elements therein, e.g. for the first closure element, depending on the desired need of the person constructing the panel, e.g. depending on personal preferences, materials readily available, etc. Please note that product by process limitations, e.g. "formed from injection molding", have been given no weight in the claims.

For claims 15 and 24, Nelson fails to teach the specific dimensions of the first closure element. The examiner takes Official notice that plastic insulation panels/parts having various dimensions are well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the door of Nelson by using a plastic element with a flank portion at least two centimeters, depending on the desired need of the person constructing the panel, e.g. depending on personal preferences, size of the refrigerator as a whole, etc.

Claims 12, 15, 21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over McClellan (2,750,901). As stated above, McClellan teaches the limitations of claims 10 and 19, including a first closure element. McClellan also shows

that the element is made of metal. For claims 12 and 21, McClellan fails to teach that the element is made of plastic. The examiner takes Official notice that plastic insulation panels/parts are well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the closure of McClellan by using plastic elements therein, e.g. for the first closure element, depending on the desired need of the person constructing the panel, e.g. depending on personal preferences, materials readily available, etc. Please note that product by process limitations, e.g. "formed from injection molding", have been given no weight in the claims.

For claims 15 and 24, McClellan fails to teach the specific dimensions of the first closure element. The examiner takes Official notice that plastic insulation panels/parts having various dimensions are well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the closure of McClellan by using a plastic element with a flank portion at least two centimeters, depending on the desired need of the person constructing the panel, e.g. depending on personal preferences, size of the refrigerator as a whole, etc.

Allowable Subject Matter

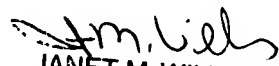
Claims 16, 18, 25 and 27 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Wilkens
August 2, 2007


JANET M. WILKENS
PRIMARY EXAMINER
Art 3637